

REMARKS

In the Office Action, the Examiner rejected claims 23–28 under 35 U.S.C. § 102(e) over U.S. Patent 6,535,243 (“*Tullis*”). The Examiner also rejected claim 26 under 35 U.S.C. § 103(a) as unpatentable over *Tullis*. And the Examiner objected to claim 29 as dependent upon a rejected base claim, but indicated claim 29 would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claim.

Amendment

By this amendment, Applicant cancels claims 16–19, without prejudice or disclaimer of the subject matter contained therein. Claims 16–19 were previously withdrawn from examination as drawn to a non-elected species. Applicant also amends claim 27 to incorporate claim language previously recited in claim 29 and cancels claim 29, without prejudice or disclaimer of the subject matter contained therein. Applicant notes that the amendment to claim 27 is made without regard to any prior art reference and should not be construed as a disclaimer, either through the literal scope of the claim or under the Doctrine of Equivalents, of any patentable subject matter.

Rejection of claims 23–28

Although the Examiner rejected claims 23–28 under § 102(e) and rejected claim 26 under § 103(a), all over *Tullis*, *Tullis* is not a valid prior art reference. Section 102(e) recites:

A person shall be entitled to a patent unless—

(e) The invention was described in—

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a);

The earliest priority date that *Tullis* is entitled to is January 6, 1998—its U.S. filing date. By contrast, the pending application claims priority under 35 U.S.C. § 119 to Japanese Application No. 9-436598, filed May 27, 1997. See Application filed May 26, 1998; Office Action dated March 1, 2002, acknowledging receipt of all priority papers; MPEP § 2136 (8th ed. Rev. May 2004). Thus, *Tullis* is not a valid prior art reference under § 102(e) or any other portion of § 102. The Examiner cited no other reference in the August 11, 2004 Office Action. Consequently, no prior art reference is currently cited against any pending claim.

Applicant has amended claim 27 to incorporate the recitations of claim 29, which, according to the Examiner, contains allowable subject matter. Thus, claim 27 is in condition for immediate allowance. Claims 23–26 and 28 are likewise allowable at least because of their respective dependence from allowable claim 27.

Since allowable claims 23-28 are the only claims currently pending, each of which contains admittedly allowable subject matter, and none is rejected over any prior art reference, this application should be in condition for immediate allowance.

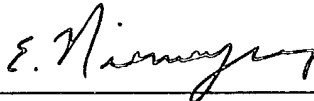
In view of the foregoing, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: 
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